

**UNITED STATES DISTRICT COURT
for the
DISTRICT OF MASSACHUSETTS**

1:05-cr-10081-MLW-ALL

UNITED STATES OF AMERICA

v.

ALEX S. NEWMAN

**AFFIDAVIT OF COUNSEL IN SUPPORT OF
DEFENDANT'S RENEWED MOTION TO CONTINUE TRIAL DATE**

I, Juliane Balliro, hereby swear and aver as follows:

1. I represent the Defendant, Alex Newman in the above-referenced matter.
2. I incorporate the facts set forth in the Affidavit of Counsel in Support of Defendant's Motion to Continue Trial Date filed on Friday, January 6, 2006.
3. On Friday, January 6, 2006, I engaged the services of Kroll On Track to retrieve searchable data from the file server and three computer drives in my possession.
4. On Monday, January 9, 2006, a forensic engineer made exact duplicates of the contents of the drive.
5. It was my hope that I would be in a position to access the data of interest to me on the drives immediately upon receipt of duplicates made by the engineer in my offices on Monday, January 9. I have now learned that was not feasible.
6. I have been informed that identifying, copying and searching the relevant data is a multi-step process that will take some period of time, perhaps weeks, to complete.
7. Although I understand that counsel for Bally, the company that acquired Planet Fitness, is still attempting to locate Mr. Newman's personal work computer, she has been unable to do so thus far. As a result, I have still not been able to ascertain the whereabouts of Mr.

Newman's computer and will not be in a position to obtain a searchable copy of its contents prior to trial.

8. I have been working diligently to review the four boxes of bank records delivered to me on Thursday, January 5, 2006 as against a sixty eight (68) page document provided by the Government detailing the alleged wire fraud. The Government has alleged that Mr. Newman diverted substantial amounts of money to what appears to be fifteen (15) different bank and credit card accounts. The transactions that comprise the allegedly diverted funds number in the several hundred, if not thousands. A careful review of the bank records is required to determine whether or to what extent the records themselves contain evidence of the transactions. This has proven to be a time consuming (and tedious) process that I now realize neither I, nor my staff, can possibly complete in time to commence a trial this month.

9. As a result, and as a further result of the trial schedules of counsel, a continuance to April 2006 is necessary in order that the defendant be afforded an adequate opportunity to prepare his defense for trial.

SIGNED AND SWORN TO this 11th day of January, 2006.

/s/ Juliane Balliro
Juliane Balliro